IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 18TH JANUARY 2007 / 28TH PAUSHA 1928

RCRev..No. 415 of 2006()

{R.C.A.NO.116/2004 OF THE DISTRICT COURT [RENT CONTROL APPELLATE AUTHORITY], THRISSUR
IN R.C.P.NO.51/2001 OF THE ADDITIONAL MUNSIFF [RENT CONTROL COURT].,IRINJALAKUDA}

.....

REVISION PETITIONER/APPELLANT/RESPONDENT:

KAUSALYA, AGED 49,
D/O. KUNNUMPURATH VELAYUDHAN,
MURINGOOR DESOM,
MURINGOOR VADAKKUMURI VILLAGE,
THRISSUR DISTRICT.

BY SMT.KAUSALYA(PARTY IN PERSON)
ADV. SRI.K.RAMACHANDRAN (AMICUS CURIAE)

RESPONDENTS: RESPONDENT/PETITIONER:

VILASINI,
W/O. KUMBLAPARAMBIL SANKARANARAYANAN,
WEST CHALAKUDY VILLAGE AND DESOM,
THRISSUR DISTRICT

BY ADV. SRI.N.P.SAMUEL

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 18/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.A.ABDUL GAFOOR &
K.PADMANABHAN NAIR, JJ.

R.C.R.NO.415 OF 2006

Dated this the 18th day of January, 2007.

O R D E R

ABDUL GAFOOR, J.

The revision petitioner/tenant attempted an appeal against an order of eviction passed by the Rent Controller. But that appeal was filed with a delay of over 400 days. I.A.No.2965/04 was filed before the appellate court seeking condonation of that delay. That was dismissed. Therefore, this revision petition at the instance of the tenant.

2. The revision petition was filed by the party in person. Taking into account the complexity of the contentions raised disputing the title of the landlady and the tenancy arrangement, we requested Advocate

Sri.K.Ramachandran to appear on behalf of the revision petitioner.

3. It is submitted by the counsel for the revision petitioner so appointed, that Ext.A1 photo copy of the assignment deed is the title deed produced by the landlady before the Rent Controller. That was on 17.8.1998. The tenancy arrangement alleged as per Ext.P3 is also of the same date. Thus, it is stated that the contention of the tenant that there was no intention to act upon Ext.A1 sale deed becomes probable, the counsel submits, especially when she had continued in possession and enjoyment of the property, by reason of the reciprocative rent deed, Ext.A3.

4. It is also submitted that the Rent Controller also addressed itself a wrong question as to

whether the landlady had proved her title rather than considering the dispute regarding the title of the landlady raised by the revision petitioner/tenant as bona fide. In such circumstances, we are of the view that the merit of the matter requires consideration at the hands of the Rent Control appellate authority. So, taking into account the circumstances in which the revision petitioner is placed, we are of the view that the delay in filing the Rent Control Appeal shall have to be condoned.

5. Sri.N.P.Samuel, counsel for the respondent submits that execution proceedings have been initiated and delivery of the building has been effected.

6. At the same time, when the revision petition came up for admission, the revision petitioner herself

appeared before the Bench and submitted that she was continuing there. So, an interim order was passed to maintain the position available then.

7. Taking into account the aforesaid aspects, we are of the view that the order passed in I.A.No.2965/04 has to be set aside and the delay in filing R.C.A.No.116/04 on the file of the Rent Control Appellate Authority, Thrissur, has to be condoned.

8. Accordingly, this Rent Control Revision is allowed, setting aside the impugned order. The Rent Control Appellate Authority is directed to dispose of R.C.A.No.116/04 on merit. The interim order passed on 5.12.2006 in this petition shall continue until such disposal.

9. Taking into account the financial difficulty of the revision petitioner, we are of the view that the District Legal Services Authority, Thrissur shall make necessary arrangement for the effective legal assistance to the revision petitioner while the appeal is taken up.

10. The gist of the disposal of this revision shall be intimated to the revision petitioner forthwith.

Sd/-
(K.A.ABDUL GAFOOR)
JUDGE

Sd/-
(K.PADMANABHAN NAIR)
JUDGE

sk/

//true copy//

P.S. To Judge

K.A.ABDUL GAFOOR &
K.PADMANABHAN NAIR, JJ.

R.C.R.NO.415 OF 2006

O R D E R

18th January, 2007.